



1410-72-P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket No. 20-CRB-0005-AU]

Notice of Intent to Audit

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Public notice.

SUMMARY: The Copyright Royalty Judges announce receipt of a notice from SoundExchange of SoundExchange's intent to audit the various services, including Commercial Webcaster services, Preexisting Subscription Service(s), New Subscription Service(s), and Business Establishment Service, of Mood Media Corporation and its affiliates for 2017, 2018, and 2019 pursuant to four statutory licenses.

ADDRESSES: Docket: For access to the docket to read background documents, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/> and search for docket number 20-CRB-0005-AU.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, Program Specialist, by telephone at (202) 707-7658 or by email at crb@loc.gov.

SUMMARY INFORMATION: The Copyright Act, title 17 of the United States Code, grants to sound recordings copyright owners the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to limitations. Specifically, the right is limited by the statutory license in section 114 which allows

nonexempt noninteractive digital subscription services, eligible nonsubscription services, pre-existing subscription services, new subscription services, and preexisting satellite digital audio radio services to perform publicly sound recordings by means of digital audio transmissions. 17 U.S.C. 114(f). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording, including for transmissions to business establishments. 17 U.S.C. 112(e).

Licensees may operate under these licenses provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 and 114 licenses are set forth in 37 CFR parts 380 and 382-84.

As part of the terms set for these licenses, the Judges designated SoundExchange, Inc., as the Collective, *i.e.*, the organization charged with collecting the royalty payments and statements of account submitted by Commercial Webcasters, Preexisting Subscription Services, New Subscription Services, and Business Establishment Services, and with distributing the royalties to the copyright owners and performers entitled to receive them under the section 112 and 114 licenses. *See* 37 CFR §§ 380.4, 382.5, 383.4, 384.4.

As the Collective, SoundExchange may, only once a year, conduct an audit of a licensee for any or all of the prior three calendar years in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and deliver the notice to the licensee. 37 CFR §§ 380.6, 382.7, 383.4. 384.6.

On January 29, 2020, SoundExchange filed with the Judges a notice of intent to audit Mood Media Corporation and its affiliates (primarily Muzak LLC and DMX Music)

for the years 2017, 2018, and 2019. The Judges must publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. *Id.* Today's notice fulfills this requirement with respect to SoundExchange's January 29, 2020 notice of intent to audit.

Dated: February 24, 2020.

Jesse M. Feder,
Chief Copyright Royalty Judge.

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